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Message Text

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ACTION DLOS-09

INFO OCT-01 ISO-00 EB-08 SS-15 OES-07 SSO-00 INR-10
INRE-00 IO-13 L-03 H-01 SP-02 /069 W
----------081409 111434Z /45
O 111321Z APR 78
FM USMISSION GENEVA
TO SECSTATE WASHDC IMMEDIATE 8190

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STADIS//////////////////

FOR D/LOS ALAN BERLIND//NOTIFY ON RECEIPT//
FROM AMBASSADOR RICHARDSON

E.O.11652: N/A
TAGS: PLOS
SUBJECT: TESTIMONY BEFORE WAYS AND MEANS APRIL 13

REF: STATE 87918

1. THANK YOU FOR YOUR EXCELLENT DRAFT OF MY TESTIMONY BEFORE THE HOUSE WAYS AND MEANS COMMITTEE APRIL 13 WHICH I HAVE REVIEWED CAREFULLY. THE CHANGES I WISH TO MAKE ARE INCORPORATED IN THE FULL TEXT REDRAFT WHICH FOLLOWS.

2. BEGIN TEXT:

MR. CHAIRMAN:

MAY I BEGIN BY THANKING YOU FOR THIS OPPORTUNITY TO APPEAR BEFORE YOU AND PRESENT OUR VIEWS ON THE REVENUE SHARING PROPOSAL THAT HAS BEEN SUBMITTED BY THE ADMINISTRATION IN CONNECTION WITH THE DEEP SEABED MINING BILL CURRENTLY BEING CONSIDERED IN THE HOUSE OF REPRESENTATIVES--H.R.
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3350. AFTER ALMOST THREE WEEKS OF STRICTLY PROCEDURAL WRANGLING AT AN EIGHT-WEEK LAW OF THE SEA NEGOTIATING SESSION, I WAS NATURALLY RELUCTANT TO LEAVE GENEVA AS SUBSTANTIVE DISCUSSIONS GET UNDER WAY. BUT I CONSIDERED IT ESSENTIAL THAT I APPEAR BEFORE YOU TO EXPLAIN WHY THE ADMINISTRATION ATTACHES HIGH IMPORTANCE TO INCLU-SION OF REVENUE SHARING PROVISIONS IN SEABED MINING LEGIS-

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LATION. MOREOVER, MR. CHAIRMAN, I WANT TO EXPRESS TO YOU MY PERSONAL GRATITUDE, AND THAT OF THE ADMINISTRATION, FOR YOUR GENEROSITY IN FINDING THE TIME TO CONSIDER OUR PROPOSAL IN THE COMMITTEE'S CROWDED SCHEDULE.

MR. CHAIRMAN, THE UNITED STATES HAS BEEN NEGOTIATING WITH SOME 150 OTHER COUNTRIES IN THE LAW OF THE SEA CONFERENCE FOR ALMOST FIVE YEARS IN AN EFFORT TO REACH AGREEMENT ON A LARGE NUMBER OF ISSUES OF PRIME IMPORTANCE TO OUR NATIONAL WELFARE AND SECURITY. I REFER TO SECURITY IN ITS BROADEST AND TRUEST SENSE, ENCOMPASSING NOT ONLY MAXIMUM MANEUVERABILITY FOR OUR NAVAL AND AIR FORCES BUT, ALSO, THE SECURITY THAT ATTACHES TO ENVIRONMENTAL PROTEC- TIONS, FREEDOM OF NAVIGATION FOR TRADE, AND ACCESS TO LIV- ING AND NON-LIVING RESOURCES OF THE OCEANS. AMONG THE LATTER ARE THE MINERAL RESOURCES THAT HAVE THUS FAR LAIN UNDISTURBED ON THE DEEP SEABED, SPECIFICALLY THE NODULES CONTAINING EXPLOITABLE OR POTENTIALLY EXPLOITABLE QUANTI- TIES OF NICKEL, COBALT, MANGANESE, AND COPPER.

EIGHT YEARS AGO, THE UNITED STATES JOINED WITH OTHERS AT THE UNITED NATIONS IN DECLARING THAT THESE SEABED RE- SOURCES CONSTITUTE THE COMMON HERITAGE OF MANKIND. WE HAVE NEVER CONSIDERED, NOR DO WE NOW CONSIDER, THAT PRIN- CIPLE TO BE A MERE SLOGAN. RATHER, WE WISH TO SEE THIS POLITICAL PRINCIPLE OF THE COMMON HERITAGE OF MANKIND
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TRANSLATED INTO A REALISTIC AND LEGALLY BINDING FORM. IF THIS CAN BE DONE THEN THE INTERNATIONAL COMMUNITY WILL BE GIVEN THE CHANCE TO SHARE IN THE PROFITS THAT EXPLOITATION OF DEEP SEABED RESOURCES MAY ONE DAY PRODUCE. THE CON- CLUSION OF AN ACCEPTABLE TREATY IS CRUCIAL TO THE REALIZA- TION OF THE COMMON HERITAGE, WHICH OTHERWISE WOULD INDEED BECOME MERELY A SLOGAN. I AM SORRY TO HAVE TO SAY THAT ACHIEVING A SATISFACTORY TREATY IS FAR FROM CERTAIN. THE NEGOTIATING TEXT NOW BEFORE THE LAW OF THE SEA CONFERENCE WOULD, IF ADOPTED, VIRTUALLY INSURE THAT SEABED MINING UNDER ITS AUSPICES WOULD NOT TAKE PLACE, SO GREAT ARE THE DISINCENTIVES TO INVESTMENT IN CIRCUMSTANCES WHERE FORMID- ABLE INVESTMENT IS REQUIRED. OUR DELEGATION WILL SPARE NO EFFORT TO REMOVE THE DISINCENTIVES AND TO CONSTRUCT A TREATY THAT WILL ALLOW ECONOMICALLY RATIONAL EXPLOITATION OF DEEP SEABED RESOURCES IF, AS, AND WHEN CONDITIONS IN THE MARKETS FOR THE VARIOUS COMMODITIES TO BE PRODUCED INDUCE POTENTIAL MINERS TO BEGIN COMMERCIAL PRODUCTION. UNDERTAKING SUCH EXPLOITATION WILL REQUIRE A COMBINATION OF FINANCIAL STRENGTH AND TECHNOLOGICAL RESOURCES AS WELL AS THE WILLINGNESS TO DEPLOY THOSE ASSETS. AT THE PRESENT TIME A FEW INTERNATIONAL CONSORTIA ARE ACTIVELY PREPARED TO

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TAKE THE RISKS UNDER REASONABLE CONDITIONS. IN THESE CONSORTIA AMERICAN FIRMS PLAY A PROMINENT PART.
TRY AS WE MAY, IT IS FAR FROM CERTAIN THAT WE WILL BE ABLE TO NEGOTIATE THE KIND OF TREATY THAT MEETS OUR ESSENTIAL INTERESTS IN SEABED MINING. AMERICAN FIRMS HAVE ALREADY INVESTED CONSIDERABLE TIME AND MONEY IN THE DEVELOPMENT OF THE TECHNOLOGY NEEDED FOR COMMERCIAL RECOVERY OF MANGANESE NODULES FROM THE DEEP SEABED. OUR GOVERNMENT, IN TURN, SHOULD TAKE REASONABLE MEASURES TO MAKE POSSIBLE THEIR PROGRESS TO THE COMMERCIAL RECOVERY STAGE SHOULD THEY WISH TO DO SO. IT IS THIS OBLIGATION THAT HAS MOTI-

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VATED THE ADMINISTRATION TO SUPPORT CONGRESS IN MOVING FORWARD WITH DEEP SEABED LEGISLATION. NATURALLY, WE HAVE STRONG VIEWS ON THE CONTENT OF SUCH LEGISLATION, AND WE HAVE MADE THEM KNOWN IN TESTIMONY BEFORE OTHER COMMITTEES OF BOTH HOUSES OF CONGRESS. TO AVOID REPETITION, I WOULD LIKE TO FOCUS HERE ON REVENUE SHARING, A SYMBOL OF OUR DEDICATION TO THE COMMON HERITAGE PRINCIPLE OF WHICH I SPOKE, AND AN ESSENTIAL ELEMENT IN ADMINISTRATION SUPPORT OF LEGISLATION.

THE UNITED STATES HAS SUPPORTED AT THE LAW OF THE SEA CONFERENCE A DUAL, OR PARALLEL, SYSTEM OF SEABED EXPLOITATION WHEREBY FOR EACH IDENTIFIED MINE SITE TO BE EXPLOITED BY PUBLIC OR PRIVATE COMPANIES SPONSORED BY STATES, ONE WOULD BE AVAILABLE FOR EXPLOITATION BY AN OPERATING ARM OF THE INTERNATIONAL SEABED AUTHORITY OR BY THE DEVELOPING COUNTRIES WHO WOULD ALSO BE FREE TO IDENTIFY AND EXPLOIT OTHER SITES. THE MINING COMPANIES

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WOULD, MOREOVER, MAKE PAYMENTS TO THIS AUTHORITY, IN RETURN FOR ASSURED ACCESS WITH SECURITY OF TENURE, AGAIN FOR THE BENEFIT OF DEVELOPING COUNTRIES IN CONSONANCE WITH THE SPIRIT OF THE CONCEPT OF THE COMMON HERITAGE OF MANKIND. FROM WHAT I HAVE SAID ABOUT LACK OF PROGRESS IN
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THE NEGOTIATIONS, YOU CAN GUESS THAT NEITHER THE NATURE NOR THE DIMENSIONS OF SUCH PAYMENTS HAVE YET TAKEN FORM AT THE CONFERENCE. NEVERTHELESS, WE PERSIST IN THE HOPE THAT REASONABLE AND WIDELY ACCEPTABLE TERMS AND CONDITIONS CAN BE WORKED OUT, AND WE KNOW THAT OUR CHANCES OF WORKING THEM OUT WILL BE BETTER IF THE OTHER CONFERENCE PARTICIPANTS RECOGNIZE THAT DEEP SEABED MINING WILL OCCUR--WHETHER OR NOT THERE IS A TREATY.

IN ORDER TO MAKE LEGISLATION CONSISTENT WITH AND SUPPORTIVE OF THE PRINCIPLES UNDERLYING OUR LAW OF THE SEA POSITIONS, WE THINK IT OF CENTRAL IMPORTANCE TO INCLUDE IN THE LEGISLATION A PROVISION THAT MANDATES THE SETTING ASIDE OF FUNDS, PAID BY MINING COMPANIES, FOR INITIAL CONTRIBUTIONS TO THE INTERNATIONAL SEABED AUTHORITY TO BE CREATED BY A TREATY THAT MAY EVENTUALLY ENTER INTO FORCE WITH RESPECT TO THE UNITED STATES. WITH REVENUE SHARING, THE PROPOSED MINING LEGISLATION IS BOTH PRUDENT AND INTERNATIONALLY DEFENSIBLE; WITHOUT REVENUE SHARING, THE ADMINISTRATION COULD NOT SUPPORT IT. WE BELIEVE THAT THE PROPOSAL BEFORE THIS COMMITTEE MEETS OUR OBJECTIVES, AND WE URGE ITS ADOPTION.

THE PROPOSAL CALLS FOR PAYMENTS AMOUNTING TO 3.75 PERCENT OF THE IMPUTED VALUE OFTHEHARD MINERAL RESOURCES RECOVERED BY A PERMITTEE, WITH THAT VALUE COMPUTED AT 20 PERCENT OF THE PROCEEDS OF SALES OF THE METALS OR MINERALS DERIVED FROM THOSE RESOURCES. THE 20 PERCENT FIGURE RELATES TO THE ESTIMATED PROPORTIONAL SHARE OF THE COSTS OF THE MINING PROCESS ITSELF INRELATION TO THE TOTAL COSTS INVOLVED IN MINING, TRANSPORTATION, PROCESSING, AND MARKETING. THIS IS CONSISTENT WITH OUR LAW OF THE SEA NEGOTIATING POSITION AS IT WOULD LIMIT REVENUE SHARING TO THE MINING PHASE ALONE. IT SHOULD BE RECOGNIZED, HOWEVER,
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THAT THE PAYMENTS REQUIRED UNDER A TREATY MAY WELL BE LARGER THAN THOSE CALLED FOR IN THIS BILL AND MAY INCLUDE PAYMENTS MADE ON DIFFERENT BASES: FOR EXAMPLE, A REVENUE SHARING FORMULA WHICH ALLOWS FOR INVESTMENT RECOVERY AND

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REQUIRES PROFIT SHARING AFTER A FIRM HAS ACHIEVED A CER-
TAIN RATE OF RETURN.

MR. CHAIRMAN, I THANK YOU AGAIN FOR THE CONSIDERATION YOU
HAVE SHOWN THE ADMINISTRATION IN THE COMMITTEE'S TIMELY
ATTENTION TO THIS MATTER.

3. THIS TEXT HAS BEEN CLEARED AT THE WORKING LEVEL IN
GENEVA BY REPRESENTATIVES OF TREASURY, INTERIOR, COMMERCE,
DOD, AND STATE/EB. RICHARDSON

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